

September 12, 1972 CONGRESSIONAL RECORD — SENATE

S 14647

Mr. METCALF. Mr. President, I have one further amendment. This is an amendment that was requested by the former chairman of the Committee on Government Operations, Mr. McCLELLAN, who received a letter from the Central Intelligence Agency suggesting such an amendment. I send the amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.
The assistant legislative clerk read as follows:

On page 4, after line 12, insert the following new subparagraph: "(b) Nothing in this Act shall be construed to apply to an advisory committee which furnishes advice or recommendations only with respect to national security or intelligence matters."

On page 4, on line 10, change "(b)" to "(c)".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment was agreed to.

Mr. METCALF. Mr. President, I ask unanimous consent that the letter to Senator McCLELLAN from the CIA, dated July 18, 1972, be printed in the Record. There being no objection, the letter was ordered to be printed in the Record, as follows:

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., July 18, 1972.

Hon. John L. McCLELLAN,
Chairman, Committee on Government Operations, U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: We wish to submit the views of this Agency on S. 3520, 92nd Congress, a bill "To prescribe certain standards and procedures governing the establishment and operation of advisory committees in the Federal Government, and for other purposes."

In its present form, S. 3520 raises several problems for the Agency. The provisions of most concern are the requirements:

(a) To publicize the existence of an advisory committee;

(b) To file with the Library of Congress a committee charter involving information on the committee's objective and scope of activity and a description of its duties;

(c) To file committee reports with the Library of Congress;

(d) To provide to the Librarian of Congress committee records, transcripts, working papers, drafts, studies and other documents upon a committee's termination;

(e) To audit the nature and extent of the committee's activities by the Comptroller General, and

(f) To make a determination in writing, and publish it in the Federal Register prior to each meeting which is to be closed to the public and for which the minutes of the meeting are not to be available upon the request of any person because of security considerations.

The National Security Act of 1947 requires this Agency:

"To correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities . . ." (50 U.S.C. 403).

In order to correlate and evaluate foreign intelligence information, it is necessary to obtain advice and recommendations from diverse sources, frequently using the committee system for this purpose. These committees are usually composed solely of Federal employees and officers but a number have representatives from the private sector as well. In both cases, however, their work involves sensitive matters directly bearing upon a statutory requirement:

"That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure; . . ." (50 U.S.C. 403).

It is believed that the requirements of S. 3520 previously noted could conflict both with the statutory responsibility to protect intelligence sources and methods and with the provisions of the Central Intelligence Agency Act of 1949 which exempt this Agency from:

"The provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency . . ." (50 U.S.C. 403g).

It is clear from the hearings before your Committee on legislation similar to S. 3520 that the principal objective of the legislation is to assure that advisory committees operate in the public interest. In the case of committees dealing exclusively with sensitive national security and foreign intelligence matters, it appears that the public interest is best served by protecting their endeavors in line with the provisions of law noted above.

In view of the foregoing, it is recommended that S. 3520, or any similar legislation reported out by your Committee, contain a provision similar to that which appears in S. 1637, which was introduced by Senator Metcalf on 22 April 1971, as follows:

"APPLICABILITY

"Sec. 4. This Act shall not apply to an advisory committee—(1) which furnishes advice or recommendations only with respect to national security or intelligence matters; . . ."

We will be happy to provide any additional information that your Committee may request.

The Office of Management and Budget has advised that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

RICHARD HELMS,
Director

Public Law 92-463
92nd Congress, H. R. 4383
October 6, 1972

An Act

APPLICABILITY

SEC. 4.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

(1) the Central Intelligence Agency; or

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<p>Remarks: Per your call this morning on the advisory committee legislation, I could provide you with more detail, but I think the attached is sufficient. It is an excerpt from the <u>Congressional Record</u> when the Senate approved the exemption requested by the Director by letter dated 18 July 1972. In conference committee that language was narrowed somewhat to provide a specific exemption for the Agency. (The language so approved is contained in the Public Law in the righthand column of the attached.)</p> <p>Please let me know if I can be further help.</p>			
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